

04-609

AGREEMENT

BETWEEN

THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA

AND

THE NATO MAINTENANCE AND SUPPLY ORGANIZATION

FOR

LOGISTICS SUPPORT OF THE STINGER
WEAPON SYSTEM PARTNERSHIP

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ARTICLE I

PREAMBLE

The Department of Defense (DOD) of the United States of America and the North Atlantic Treaty Organization (NATO) Maintenance and Supply Organization (NAMSO), hereinafter referred to as the "Parties":

Recognizing the benefits to be obtained from standardization, rationalization, and interoperability of military equipment; and

Expressing an interest in Logistics Support of the Stinger Weapon System Partnership.

Have agreed as follows:

ARTICLE II

DEFINITION OF TERMS

The Parties have agreed upon the following definition for particular terms used in this Agreement:

Classified Information	Official information that requires protection in the interests of national security and is so designated by the application of a security classification marking.
Contract	Any mutually binding legal relationship, which obligates a Contractor to furnish supplies or services, and obligates one or both of the Parties to pay for them.
Contractor	Any entity awarded a Contract by a Party.
Controlled Unclassified Information	Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under this Agreement, the information shall be marked to identify its "in confidence" nature. It could include information, which has been declassified, but remains controlled.
European Stinger Production Group	Countries indicated by an asterisk in Annex A of this Agreement. The group was organized pursuant to a DOD/Germany MOD MOU for the Dual Production and Sale of Stinger Weapon System dated 27 April 1983.

Logistics+ Support	Includes supply and maintenance support, technical and engineering support, transportation, and procurement necessary to maintain a weapon system.
Maintenance and Supply Agency (NAMSA)	The executive body of NAMSO
NATO Maintenance and Supply Organization (NAMSO)	A subsidiary body of NATO established by the North Atlantic Council pursuant to Article 9 of the North Atlantic Treaty.
Proprietary Technical Information	Information which is technical in character, sufficiently explicit for use and has utility in industry, and which is known only to the owner and persons in privity with him and therefore not available to the public. Proprietary Technical Information may include, for example, inventions, drawings, know-how and data.
Stinger Weapon System Partnership	A partnership established by NAMSO to provide for joint logistics support of the STINGER Weapon System. The Partnership was established by Agreement No. 164, dated 11 December 1989.
Swiss Stinger Production Program	Program under the terms of a MOU between DOD and Swiss Defense Technology and Procurement Agency for Co-production of Stinger-RMP (less reprogrammable module) Weapon System dated 23 February 1988.

Technical Data

Recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The Term does not include computer software or data incidental to contract administration, such as financial and/or management information.

Third Party

A government other than the governments of the United States, Germany, Greece, Netherlands, or Turkey and any person or other entity whose government is not one of those five governments.

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ARTICLE III

OBJECTIVE AND SCOPE

3.1. The objective of this Agreement is to provide United States authorization for NAMS0 to provide Logistics Support to the Stinger Weapon System Partnership and to establish the terms and conditions to govern the United States - NAMS0 relationship related to this support.

3.2. The United States agrees that NAMS0 is authorized, in accordance with the terms of this Agreement, to conduct Logistical Support for the NATO countries who are partner nations of the Stinger Weapon System Partnership on the STINGER missiles (as defined in paragraph 3.3 below), and support and training equipment produced in the United States and purchased through foreign military sales (FMS).

3.3. For this Agreement, the STINGER missile refers to the STINGER Basic, the STINGER-RMP (less reprogrammable module), and STINGER Block I (export version).

3.4. Annex A to this Agreement lists the NAMS0 partner nations of the Stinger Weapon System Partnership. Annex A also lists nations who are observers to the Stinger Weapon System Partnership.

3.5. Logistics Support of United States Government (USG) owned STINGER missiles, and all other STINGER missiles sold through FMS to countries who are not partner nations of the Stinger Weapon System Partnership is outside the scope of this Agreement. Further, Logistics Support to observer nations of the Stinger Weapon System Partnership is not authorized by this Agreement.

ARTICLE IV

LOGISTICS SUPPORT

4.1. All defense articles and defense services (to include Technical Data) furnished under the terms and conditions of this Agreement shall be transferred in accordance with United States laws, regulations, policies and procedures.

4.2. Defense articles and defense services (to include Technical Data) furnished by DOD shall be transferred under Letters of Offer and Acceptance (LOAs). In the event of any conflict between this Agreement and LOAs implementing this Agreement, the terms of the LOAs shall prevail.

4.3. For the Logistics Support authorized pursuant to this Agreement, NAMSA may use only United States contractors, and contractors which are authorized by the United States to support the European Stinger Project Group or the Swiss Stinger Production Program.

ARTICLE V

MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

5.1. The United States Army Security Assistance Command (USASAC) representing the DOD and the General Manager of the NATO Maintenance and Supply Agency (NAMSA) representing NAMSO are responsible for oversight and implementation of this Agreement. Any questions or conflicts concerning implementation of this Agreement should be referred to USASAC and NAMSA for resolution

5.2. NAMSA and USASAC respectively shall designate a Program Officer to develop procedures necessary to comply with the provisions of this Agreement or affecting the implementation of logistics support including but not limited to:

- 5.2.1. Arrangements for the transfer of defense articles and defense services (including Technical Data) under LOAs;
- 5.2.2. Monitoring overall Logistics Support to the Stinger Weapon System Partnership;
- 5.2.3. Reviewing and forwarding to the Parties for approval recommended Amendments to this Agreement in accordance with Article XIV (Amendment, Termination, Entry into Force, and Duration); and
- 5.2.4. Maintaining oversight of the security (to include Control Unclassified Information) aspects of the program.

5.3. The Program Officers may draft an Implementing Arrangement for the purpose of accomplishing the activities described in paragraph 5.2 above. If they draft such an Implementing Arrangement, they shall submit it to the Parties for their approval. In the event of any inconsistency between the Implementing Arrangement and this Agreement, the terms and conditions of this Agreement shall govern.

5.4. After written authorization of the Parties, the Program Officers may modify Annex A to reflect authorized

changes in the Stinger Weapon System Partnership or in the European Stinger Production Group.

5.5. NAMSA and USASAC may meet for management reviews at a time and location mutually acceptable to both. These reviews shall be documented by written minutes.

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ARTICLE VI

FINANCIAL PROVISIONS

6.1. NAMSO shall pay the full cost of all defense articles and defense services (to include Technical Data) furnished in accordance with this Agreement, including but not limited to the following area:

- 6.1.1. Costs of reproduction, packaging, handling and transfer of Technical Data and other related documentation;
- 6.1.2. Cost resulting from the provision of miscellaneous technical, administrative and engineering services specifically requested; and
- 6.1.3. Costs of hardware and test facilities specifically requested.
- 6.1.4 Costs associated with implementing and monitoring this agreement.

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ARTICLE VII

USE OF TECHNICAL DATA PROVIDED

7.1. The DOD agrees to sell NAMS0 Technical Data that DOD determines, on a case-by-case basis, necessary for logistics support of the Stinger Weapon System Partnership. The DOD shall provide only Technical Data in its possession or under its control and where DOD has the right to transfer to others. All Technical Data provided by DOD under this Agreement shall be furnished pursuant to LOAs.

7.2. The Technical Data provided under this Agreement shall be used only for the purposes of paragraph 3.2.

7.3. The DOD grants to NAMS0 the right to use or have used for the purposes stated in paragraph 7.2, the Technical Data provided by paragraph 7.1. Except as specifically authorized in this Agreement (see, paragraph 7.4 below), no right of production or manufacture of any item associated with the STINGER missile system is authorized.

7.4. Where an item described in the Technical Data provided pursuant to this Agreement is no longer available through FMS, NAMS0 may, after written authorization of DOD, manufacture or produce the item for Logistics Support of the Stinger Weapon System Partnership. No production for any other use or Third Party sale is authorized.

7.5. NAMS0 is not authorized to release or disclose any Technical Data provided under this Agreement to the government of any partner or observer nation of the Stinger Weapon System Partnership. Conditions on release of Technical Data to contractors are stated in paragraph 7.12.

7.6. NAMS0 is not authorized to change the current (as of the date of signature of this Agreement) configurations of the STINGER missile listed in paragraph 3.3. or use the Technical Data furnished by this Agreement to upgrade in any manner the current configurations of the STINGER missile listed in paragraph 3.3. without the prior written consent of the DOD.

7.7. The provision of Technical Data by DOD does not in any way constitute a license to make, use, sell, or transfer whatsoever any inventions, technical information, or know-

how (hereinafter referred to as Proprietary Technical Information) which may be owned by a person that is described in the documentation associated with the Technical Data. Further nothing contained in this Agreement shall imply a license to NAMS0 under any United State patent. NAMS0 must obtain separate licenses or other written authorization for the manufacture, use, sale, or transfer of such Proprietary Technical Information.

7.8. The DOD incurs no liability for any procurement, manufacture, use, or sale by NAMS0 which make use of any of the Proprietary Technical Information, or for any result derived from the use of Technical Data furnished. NAMS0 agrees to indemnify the DOD against any liability resulting from a claim asserted by the owner of any such proprietary rights or patent in connection with such use by NAMS0 of the documentation furnished pursuant to this Agreement.

7.9. The NAMS0 shall observe and protect the rights of owners of Proprietary Technical Information disclosed pursuant to this Agreement. The exchange of Proprietary Technical Information between Parties shall take place within the framework of the NATO Agreement on the Communication of Technical Information for Defense Purposes signed on 19 October 1970, and the Implementing Procedures thereto.

7.10. The DOD shall use its best efforts to provide Technical Data that are accurate, adequate for the authorized purpose, current, and complete. However, the DOD does not guarantee the adequacy, accuracy, currency, or completeness of these data. Similarly, the DOD does not guarantee the accuracy, adequacy, currency, or completeness of any United States industry information.

7.11. Although no production is specifically authorized under this Agreement [but see paragraph 7.4], if NAMS0, as the result of its activities herein, makes any changes, modifications, and improvements in the STINGER missile (as defined in paragraph 3.3) or Logistics Support, NAMS0 shall be obligated to provide to DOD the following:

7.11.1. All Technical Data pertaining to changes, modifications, and improvements in the design of the Stinger derived from the use of the Technical Data provided by DOD under this Agreement.

7.11.2. Notwithstanding 7.11.1, if NAMS0
incorporates an existing commercial item
without modification of either the item or
STINGER missile and if: (i) the item is not
based in whole or in part on United States
Technical Data or on United States design;
and (ii) the item is not in whole or in part
funded or financed by NAMS0 directly or
indirectly; and (iii) there is no
development contract or subcontract between
NAMS0 and the supplier, then NAMS0 shall
only be required, to the extent that it has
the right to do so without incurring
liability to others, to provide the DOD
sufficient information for the DOD to
evaluate the item, to procure it, to
incorporate it into the system, and to
operate, maintain, repair, overhaul, and
modify it.

7.11.3. NAMS0 shall grant or cause to be granted to
DOD a non-exclusive, irrevocable, royalty-
free license to use and have used for DOD
purposes, including security assistance, the
Technical Data defined in 7.11.1. above and
any inventions (whether or not patentable)
made in the course of activities covered by
this Agreement. Additionally, NAMS0 shall
use its best efforts to obtain licenses on
fair and reasonable terms to the DOD to use
and have used the Technical Data defined in
subparagraph 7.10.2 above and patented
inventions depicted in such Technical Data
for DOD purposes, including security
assistance.

7.11.4. NAMS0 shall include suitable provisions in
all pertinent Contracts, including a
requirement to include those same provisions
in all subcontracts, to meet the
requirements of this paragraph (7.10).

7.12. Prior to release by NAMS0 to any Contractor,
prospective Contractor, or subcontractor of any Technical
Data furnished pursuant to this Agreement, the recipient
shall be placed under a legally binding commitment not to

disclose the Technical Data to a government of a partner or observer nation of the Stinger Weapon System Partnership, or any Third Party, or to use the Technical Data for any purpose not authorized by this Agreement. See paragraph 4.3. above for authorized Contractors.